

AMENDED IN SENATE MAY 5, 2005

SENATE BILL

No. 1044

Introduced by Senator Hollingsworth

February 22, 2005

~~An act to amend Section 290.46 of the Penal Code, relating to sex offenders.~~ *An act to amend Sections 209, 220, 290.3, 290.46, 667.51, 667.61, 667.71, 3000, 3000.7, and 3001 of, and to add Section 288.3 to the Penal Code, and to amend Section 6600 of the Welfare and Institutions Code, relating to sex offenders.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1044, as amended, Hollingsworth. Sex offenders.

Existing law makes it an offense for any person to kidnap or carry away any individual for the purpose of committing any of a list of certain crimes.

This bill would add to list of crimes, certain sex offenses committed in concert, lewd and lascivious acts, as specified, and acts of sexual penetration, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law provides that any person who assaults another with the intent to commit any of certain listed offenses is punishable by imprisonment in the state prison for 2, 4, or 6 years.

This bill would provide that any person who, in the commission of a first degree burglary, assaults another with the intent to commit any of those specified offenses would be punishable by imprisonment in the state prison for life, with the possibility of parole.

By creating a new crime, this bill would impose a state-mandated local program.

Existing law defines various sexual offenses wherein the victim is a minor.

This bill would provide that every person who contacts or communicates with a minor, or attempts to contact or communicate with a minor, who knows or reasonably should know that the person is a minor, with intent to commit any of certain specified sex offenses involving the minor would be punishable by imprisonment in the state prison for the term prescribed for an attempt to commit the intended offense. The bill would provide a 5 year enhancement for persons with a prior conviction for this offense.

By creating a new crime, this bill would impose a state-mandated local program.

Existing law provides that every person convicted of any of a list of specified offenses shall, in addition to any imprisonment, fine, or both, be punished by an additional fine of \$200 upon a first conviction, and \$300 upon a subsequent conviction, as specified, for use in DNA testing and other purposes as specified. Existing law requires these moneys to be transferred by the counties for deposit in the state's General Fund.

This bill would increase the amount of the fines to \$300 and \$500, respectively. The bill would require transfer of some of these moneys to the Department of Corrections to defray the cost of Global Positioning System monitoring for certain parolees, and to defray costs associated with posting certain information relative to sex offenders on a department Internet Web site.

Existing law requires the Department of Justice to make specified information about certain sex offenders available to the public via an Internet Web site and to update that information on an ongoing basis, as specified. This information includes the home address of specified offenders and the community of residence and ZIP Code of others. Existing law provides that certain offenders with less serious sexual offense histories, as specified, may apply to the department for exclusion from the Internet Web site.

This bill would ~~make a technical, nonsubstantive change to these provisions~~ require that the home address of all offenders listed in the Internet Web site be made available. This bill would also remove provisions that allow some offenders to apply for exclusion from the Internet Web site. This bill would also add persons who have been convicted of various offenses involving obscene matter depicting a

minor or matter depicting a minor engaging in or simulating sexual conduct, and sexual exploitation of a child to these provisions.

Existing law provides that any person convicted of any of certain specified lewd and lascivious acts shall receive an enhancement of 5 years imprisonment in the state prison, provided however that the enhancement does not apply for a prison term served prior to a “wash out” period of 10 years in which the defendant remained free of both prison custody, and the commission of an offense resulting in a felony conviction.

This bill would delete the “wash out” provisions. The bill would make other technical conforming changes.

Existing law provides that any person convicted of any of certain offenses under one or more specified circumstances or 2 or more of certain other specified circumstances is punishable by imprisonment in the state prison for life, and shall not be eligible for parole for 25 years, subject to exception. Existing law also provides that any person convicted of any of certain other offenses under one of certain other specified circumstances is punishable by imprisonment in the state prison for life, and shall not be eligible for parole for 15 years, subject to exception. Existing law defines certain of these offenses as being committed by force, violence, duress, menace, or fear, as specified. Existing law limits the amount by which a sentence under these provisions may be reduced for credits to no more than 15% and requires at least 85% of the 25 or 15 year minimum term be served.

This bill would recast those provisions to make the punishment 25 years to life and 15 years to life imprisonment, respectively. The bill would add certain other specified sex offenses the list of specified offenses for certain purposes in the described sentencing scheme. The bill would delete the requirement that certain offenses be committed by force, violence, duress, menace, or fear, as specified. The bill would delete the provisions limiting reducing the term by no more than 15% and requiring that at least 85% of the 25 or 15 year minimum term be served.

Existing law defines “habitual sexual offender” in part as a person has previously been convicted of one or more of certain specified sex offenses, and whose current conviction is for one of those offenses. Existing law provides that the current conviction is punishable by imprisonment in the state prison for 25 years to life. Existing law defines certain of these offenses as being committed by force, violence, duress, menace, or fear, as specified. Existing law limits the amount

by which a sentence under these provisions may be reduced for credits to no more than 15% and requires at least 85% of the 25 minimum term be served. Other provisions of existing law authorize a court to strike prior convictions from consideration in calculating enhanced sentences based on prior convictions.

The bill would add certain other specified sex offenses the list of specified offenses for certain purposes in the described sentencing scheme. The bill would delete the requirement that certain offenses be committed by force, violence, duress, menace, or fear, as specified. The bill would delete the provisions limiting reducing the term by no more than 15% and requiring that at least 85% of the 25-year minimum term be served. This bill would prohibit a court from striking any allegation, admission, or finding of any prior conviction for specified offenses for purposes of the these provisions. The bill would also prohibit probation and suspension of a sentence for convictions under these provisions.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Existing law provides that the term of parole for persons receiving a life sentence for certain sex offenses is 5 years, and may be subject to an additional 5 year period of parole, under specified circumstances.

This bill would recast those provisions to provide a parole period of 10 years, and that in no case may a person subject to the 10 year probation period be retained under parole in custody for more than 15 years for the date of initial parole.

Existing law generally regulates the conditions of parole.

This bill would provide that every inmate convicted of a “registerable sex offense” as defined who is committed to prison and then released on parole would be required to be monitored by a Global Positioning System for the term of parole, as specified. The bill would also require the parolee to pay for the costs of monitoring, subject to exceptions.

Existing law generally provides for discharge from parole.

This bill would provide that in the case of a person subject to a 10-year term of parole for specified sex offenses, when the parolee has been on parole continuously for 6 years since release from confinement, the Board of Prison Terms would be required to discharge the parolee, unless it is determined for good cause by the board that the parolee should be retained on parole.

Existing law defines “sexually violent predator” and as a person who has been convicted of a sexually violent offense against 2 or more victims and who has been diagnosed with a mental disorder that makes the person a danger to the health and safety of others, as specified. Existing law also defines “sexually violent offense” for purposes of these provisions.

This bill would include within that definition, a conviction where one or more victims was under 14 years of age at the time of the offense. The bill would add to the list of sexually violent offenses, kidnapping committed with the intent to commit certain other specified sex offenses.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 209 of the Penal Code is amended to
- 2 read:
- 3 209. (a) Any person who seizes, confines, inveigles, entices,
- 4 decoys, abducts, conceals, kidnaps or carries away another
- 5 person by any means whatsoever with intent to hold or detain, or
- 6 who holds or detains, that person for ransom, reward or to
- 7 commit extortion or to exact from another person any money or
- 8 valuable thing, or any person who aids or abets any such act, is
- 9 guilty of a felony, and upon conviction thereof, shall be punished
- 10 by imprisonment in the state prison for life without possibility of
- 11 parole in cases in which any person subjected to any such act
- 12 suffers death or bodily harm, or is intentionally confined in a
- 13 manner which exposes that person to a substantial likelihood of
- 14 death, or shall be punished by imprisonment in the state prison
- 15 for life with the possibility of parole in cases where no such
- 16 person suffers death or bodily harm.
- 17 (b) (1) Any person who kidnaps or carries away any
- 18 individual to commit robbery, rape, spousal rape, oral copulation,

1 sodomy, or ~~sexual penetration in~~ any violation of Section 264.1,
2 288, or 289, shall be punished by imprisonment in the state
3 prison for life with possibility of parole.

4 (2) This subdivision shall only apply if the movement of the
5 victim is beyond that merely incidental to the commission of, and
6 increases the risk of harm to the victim over and above that
7 necessarily present in, the intended underlying offense.

8 (c) In all cases in which probation is granted, the court shall,
9 except in unusual cases where the interests of justice would best
10 be served by a lesser penalty, require as a condition of the
11 probation that the person be confined in the county jail for 12
12 months. If the court grants probation without requiring the
13 defendant to be confined in the county jail for 12 months, it shall
14 specify its reason or reasons for imposing a lesser penalty.

15 (d) Subdivision (b) shall not be construed to supersede or
16 affect Section 667.61. A person may be charged with a violation
17 of subdivision (b) and Section 667.61. However, a person may
18 not be punished under subdivision (b) and Section 667.61 for the
19 same act that constitutes a violation of both subdivision (b) and
20 Section 667.61.

21 *SEC. 2. Section 220 of the Penal Code is amended to read:*

22 220. ~~Every~~ (a) *Except as provided in subdivision (b), any*
23 *person who assaults another with intent to commit mayhem, rape,*
24 *sodomy, oral copulation, or any violation of Section 264.1, 288*
25 *or 289 is punishable by imprisonment in the state prison for two,*
26 *four, or six years.*

27 (b) *Any person who, in the commission of a burglary of the*
28 *first degree, as defined in Section 460, assaults another with the*
29 *intent to commit rape, sodomy, oral copulation, or any violation*
30 *of Section 264.1, 288, or 289, is punishable by imprisonment in*
31 *the state prison for life with the possibility of parole.*

32 *SEC. 3. Section 288.3 is added to the Penal Code, to read:*

33 288.3. (a) *Every person who contacts or communicates with*
34 *a minor, or attempts to contact or communicate with a minor,*
35 *who knows or reasonably should know that the person is a*
36 *minor, with intent to commit an offense specified in Section 207,*
37 *209, 261, 264.1, 273a, 286, 288, 288a, 288.2, 289, 311.1, 311.2,*
38 *311.4 or 311.11 involving the minor shall be punished by*
39 *imprisonment in the state prison for the term prescribed for an*
40 *attempt to commit the intended offense.*

1 (b) *As used in this section, “contacts or communicates with”*
2 *shall include direct and indirect contact or communication that*
3 *may be achieved personally or by use of an agent or agency, any*
4 *print medium, any postal service, a common carrier or*
5 *communication common carrier, any electronic communications*
6 *system, or any telecommunications, wire, computer, or radio*
7 *communications device or system.*

8 (c) *A person convicted of a violation of subdivision (a) who*
9 *has previously been convicted of a violation of subdivision (a)*
10 *shall be punished by an additional and consecutive term of*
11 *imprisonment in the state prison for five years.*

12 SEC. 4. *Section 290.3 of the Penal Code is amended to read:*

13 290.3. (a) Every person who is convicted of any offense
14 specified in subdivision (a) of Section 290 shall, in addition to
15 any imprisonment or fine, or both, imposed for violation of the
16 underlying offense, be punished by a fine of ~~two~~ three hundred
17 dollars (~~\$200~~) (\$300) upon the first conviction or a fine of ~~three~~
18 ~~five~~ hundred dollars (~~\$300~~) (\$500) upon the second and each
19 subsequent conviction, unless the court determines that the
20 defendant does not have the ability to pay the fine.

21 An amount equal to all fines collected pursuant to this
22 subdivision during the preceding month upon conviction of, or
23 upon the forfeiture of bail by, any person arrested for, or
24 convicted of, committing an offense specified in subdivision (a)
25 of Section 290, shall be transferred once a month by the county
26 treasurer to the Controller for deposit in the General Fund.
27 Moneys deposited in the General Fund pursuant to this
28 subdivision shall be transferred by the Controller as provided in
29 subdivision (b).

30 (b) ~~Out~~ Except as provided in subdivision (d), out of the
31 moneys deposited pursuant to subdivision (a) as a result of
32 second and subsequent convictions of Section 290, one-third
33 shall first be transferred to the Department of Justice Sexual
34 Habitual Offender Fund, as provided in paragraph (1) of this
35 subdivision. Out of the remainder of all moneys deposited
36 pursuant to subdivision (a), 50 percent shall be transferred to the
37 Department of Justice Sexual Habitual Offender Fund, as
38 provided in paragraph (1), 25 percent shall be transferred to the
39 Department of Justice DNA Testing Fund, as provided in
40 paragraph (2), and 25 percent shall be allocated equally to

1 counties that maintain a local DNA testing laboratory, as
2 provided in paragraph (3).

3 (1) Those moneys so designated shall be transferred to the
4 Department of Justice Sexual Habitual Offender Fund created
5 pursuant to paragraph (5) of subdivision (b) of Section 11170
6 and, when appropriated by the Legislature, shall be used for the
7 purposes of Chapter 9.5 (commencing with Section 13885) and
8 Chapter 10 (commencing with Section 13890) of Title 6 of Part 4
9 for the purpose of monitoring, apprehending, and prosecuting
10 sexual habitual offenders.

11 (2) Those moneys so designated shall be directed to the
12 Department of Justice and transferred to the Department of
13 Justice DNA Testing Fund, which is hereby created, for the
14 exclusive purpose of testing deoxyribonucleic acid (DNA)
15 samples for law enforcement purposes. The moneys in that fund
16 shall be available for expenditure upon appropriation by the
17 Legislature.

18 (3) Those moneys so designated shall be allocated equally and
19 distributed quarterly to counties that maintain a local DNA
20 testing laboratory. Before making any allocations under this
21 paragraph, the Controller shall deduct the estimated costs that
22 will be incurred to set up and administer the payment of these
23 funds to the counties. Any funds allocated to a county pursuant to
24 this paragraph shall be used by that county for the exclusive
25 purpose of testing DNA samples for law enforcement purposes.

26 (c) Notwithstanding any other provision of this section, the
27 Department of Corrections or the Department of the Youth
28 Authority may collect a fine imposed pursuant to this section
29 from a person convicted of a violation of any offense listed in
30 subdivision (a) of Section 290, that results in incarceration in a
31 facility under the jurisdiction of the Department of Corrections or
32 the Department of the Youth Authority. All moneys collected by
33 the Department of Corrections or the Department of the Youth
34 Authority under this subdivision shall be transferred, once a
35 month, to the Controller for deposit in the General Fund, as
36 provided in subdivision (a), for transfer by the Controller, as
37 provided in subdivision (b).

38 (d) *An amount equal to one hundred dollars (\$100) for every*
39 *fine imposed pursuant to subdivision (a) in excess of one hundred*
40 *dollars (\$100) shall be transferred to the Department of*

1 *Corrections, upon appropriation by the Legislature, to defray the*
2 *cost of the Global Positioning System used to monitor high-risk*
3 *and serious and dangerous sex offender parolees, pursuant to*
4 *Section 3000.07. Any remaining fine revenue under this*
5 *subdivision shall be transferred to the Department of Justice and,*
6 *upon appropriation by the Legislature, may be used to defray*
7 *costs associated with the creation and maintenance of the*
8 *Megan's Law Internet Web site, pursuant to Section 294.4.*

9 *SEC. 5. Section 290.46 of the Penal Code is amended to*
10 *read:*

11 290.46. (a) On or before the dates specified in this section,
12 the Department of Justice shall make available information
13 concerning persons who are required to register pursuant to
14 Section 290 to the public via an Internet Web site as specified in
15 this section. The department shall update the Web site on an
16 ongoing basis. All information identifying the victim by name,
17 birth date, address, or relationship to the registrant shall be
18 excluded from the Web site. The name or address of the person's
19 employer and the listed person's criminal history other than the
20 specific crimes for which the person is required to register shall
21 not be included on the Web site. The Web site shall be translated
22 into languages other than English as determined by the
23 department.

24 (b) (1) On or before July 1, 2005, with respect to a person
25 who has been convicted of the commission or the attempted
26 commission of any of the offenses listed in this subdivision or the
27 statutory predecessors of any of these offenses, or any offense
28 which, if committed or attempted to be committed in this state,
29 would have been punishable as one or more of the offenses listed
30 in this subdivision, the Department of Justice shall make
31 available to the public via the Internet Web site his or her names
32 and known aliases, a photograph, a physical description,
33 including gender and race, date of birth, criminal history, the
34 address at which the person resides, and any other information
35 that the Department of Justice deems relevant, but not the
36 information excluded pursuant to subdivision (a).

37 (2) This subdivision shall apply to the following offenses:

38 (A) Subdivision (b) of Section 207.

39 (B) Subdivision (b) of Section 209, except kidnapping to
40 commit robbery.

- 1 (C) *Section 220, except assault to commit mayhem.*
2 (D) *Subdivision (a) of Section 243.4, provided the offense is a*
3 *felony.*
4 (E) *Section 647.6.*
5 (F) *Section 266, provided the offense is a felony.*
6 (G) *Section 266c, provided the offense is a felony.*
7 (H) *Section 266j.*
8 (I) *Section 267.*
9 (J) *Paragraph (1), (2), (3), (4), or (6) of subdivision (a) of*
10 *Section 261.*
11 ~~(D)~~
12 (K) *Section 264.1.*
13 ~~(E)~~
14 (L) *Section 269.*
15 ~~(F)~~
16 (M) ~~Subdivision~~ *Paragraph (2) of subdivision (b), or*
17 *subdivision (c) or, (d), (f), (g), or (i) of Section 286.*
18 ~~(G)~~
19 (N) *Subdivision (a), (b), or (c) of Section 288, provided that*
20 *the offense is a felony.*
21 ~~(H)~~
22 (O) ~~Subdivision~~ *Paragraph (2) of subdivision (b), or*
23 *subdivision (c) or, (d), (f), (g), or (i) of Section 288a.*
24 ~~(I)~~
25 (P) *Section 288.5.*
26 ~~(J)~~
27 (Q) *Subdivision (a), (b), (d), (e), (i), or (j) of Section 289.*
28 (R) *Section 311.1.*
29 (S) *Subdivisions (b), (c), and (d) of Section 311.2.*
30 (T) *Section 311.3.*
31 (U) *Section 311.4.*
32 (V) *Section 311.10.*
33 (W) *Section 311.11.*
34 (X) *Section 647.6.*
35 (3) *This subdivision shall also apply to any person who has*
36 *ever been adjudicated a sexually violent predator as defined in*
37 *Section 6600 of the Welfare and Institutions Code.*
38 ~~(e) (1) On or before July 1, 2005, with respect to a person~~
39 ~~who has been convicted of the commission or the attempted~~
40 ~~commission of any of the offenses listed in paragraph (2) or the~~

1 statutory predecessors of any of these offenses, or any offense
 2 which, if committed or attempted to be committed in this state,
 3 would have been punishable as one or more of the offenses listed
 4 in this subdivision, the Department of Justice shall make
 5 available to the public via the Internet Web site his or her names
 6 and known aliases, a photograph, a physical description,
 7 including gender and race, date of birth, criminal history, the
 8 community of residence and ZIP Code in which the person
 9 resides, and any other information that the Department of Justice
 10 deems relevant, but not the information excluded pursuant to
 11 subdivision (a). However, the address at which the person resides
 12 shall not be disclosed until a determination is made that the
 13 person is, by virtue of his or her additional prior or subsequent
 14 conviction of an offense listed in paragraph (2) of subdivision (a)
 15 of Section 290, subject to this subdivision. On or before July 1,
 16 2006, the Department of Justice shall determine whether any
 17 person convicted of an offense listed in paragraph (2) also has
 18 one or more prior or subsequent convictions of an offense listed
 19 in paragraph (2) of subdivision (a) of Section 290, and, for those
 20 persons, the Department of Justice shall make available to the
 21 public via the Internet Web site the address at which the person
 22 resides.

23 (2) This subdivision shall apply to the following offenses,
 24 provided that the person has one or more prior or subsequent
 25 convictions of an offense listed in paragraph (2) of subdivision
 26 (a) of Section 290:

- 27 (A) Section 220, except assault to commit mayhem.
- 28 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.
- 29 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
- 30 (i), of Section 286.
- 31 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
- 32 (i), of Section 288a.

33 (E) Subdivision (b), (d), (e), or (i) of Section 289.

34 (d) (1) On or before July 1, 2005, with respect to a person
 35 who has been convicted of the commission or the attempted
 36 commission of any of the offenses listed in this subdivision or the
 37 statutory predecessors of any of these offenses, or of any offense
 38 which, if committed or attempted to be committed in this state,
 39 would have been punishable as one or more of the offenses listed
 40 in this subdivision, the Department of Justice shall make

1 available to the public via the Internet Web site his or her names
2 and known aliases, a photograph, a physical description,
3 including gender and race, date of birth, criminal history, the
4 community of residence and ZIP Code in which the person
5 resides, and any other information that the Department of Justice
6 deems relevant, but not the information excluded pursuant to
7 subdivision (a) or the address at which the person resides.

8 (2) This subdivision shall apply to the following offenses:

9 (A) Section 220, except assault to commit mayhem, with no
10 prior or subsequent conviction of an offense listed in paragraph
11 (2) of subdivision (a) of Section 290.

12 (B) Subdivision (a) of Section 243.4, provided that the offense
13 is a felony.

14 (C) Paragraph (1), (3), or (4) of subdivision (a) of Section 261,
15 with no prior or subsequent conviction of an offense listed in
16 paragraph (2) of subdivision (a) of Section 290.

17 (D) Section 266, provided that the offense is a felony.

18 (E) Section 266e, provided that the offense is a felony.

19 (F) Section 266j.

20 (G) Section 267.

21 (H) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
22 (i), of Section 286, with no prior or subsequent conviction of an
23 offense listed in paragraph (2) of subdivision (a) of Section 290.

24 (I) Subdivision (c) of Section 288, provided that the offense is
25 a misdemeanor.

26 (J) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
27 (i), of Section 288a, with no prior or subsequent conviction of an
28 offense listed in paragraph (2) of subdivision (a) of Section 290.

29 (K) Subdivision (b), (d), (e), or (i) of Section 289, with no
30 prior or subsequent conviction of an offense listed in paragraph
31 (2) of subdivision (a) of Section 290.

32 (L) Section 647.6.

33 (e) (1) If a person has been convicted of the commission or
34 the attempted commission of any of the offenses listed in this
35 subdivision or the statutory predecessors of any of these offenses,
36 or of any offense which, if committed or attempted to be
37 committed in this state, would have been punishable as one or
38 more of the offenses listed in this subdivision, and he or she has
39 been convicted of no other offense listed in subdivision (b), (c),
40 or (d) other than those listed in this subdivision, that person may

1 ~~file an application for exclusion from the Internet Web site with~~
2 ~~the Department of Justice. If the department determines that the~~
3 ~~person meets the requirements of this subdivision, the department~~
4 ~~shall grant the exclusion and no information concerning him or~~
5 ~~her shall be made available via the Internet Web site described in~~
6 ~~this section. He or she bears the burden of proving the facts that~~
7 ~~make him or her eligible for exclusion from the Internet Web~~
8 ~~site. However, a person who has filed for or been granted an~~
9 ~~exclusion from the Internet Web site is not relieved of his or her~~
10 ~~duty to register as a sex offender pursuant to Section 290 nor~~
11 ~~from any otherwise applicable provision of law.~~

12 ~~(2) This subdivision shall apply to the following offenses:~~

13 ~~(A) A felony violation of subdivision (a) of Section 243.4.~~

14 ~~(B) Section 647.6, provided the offense is a misdemeanor.~~

15 ~~(C) An offense listed in subdivision (b), (c), or (d) if the~~
16 ~~offender is eligible for, granted, and successfully completes~~
17 ~~probation pursuant to Section 1203.066 of the Penal Code.~~

18 ~~(f)~~

19 ~~(c) The Department of Justice shall make a reasonable effort to~~
20 ~~provide notification to persons who have been convicted of the~~
21 ~~commission or attempted commission of an offense specified in~~
22 ~~subdivision (b), (c), or (d), that on or before July 1, 2005, the~~
23 ~~department is required to make information about him or her~~
24 ~~available to the public via an Internet Web site as specified in~~
25 ~~this section. The Department of Justice shall also make a~~
26 ~~reasonable effort to provide notice that he or she may be eligible~~
27 ~~for exclusion from the Internet Web site if he or she may have~~
28 ~~been convicted of an offense for which exclusion is available~~
29 ~~pursuant to subdivision (e).~~

30 ~~(g)~~

31 ~~(d) Notwithstanding Section 6254.5 of the Government Code,~~
32 ~~disclosure of information pursuant to this section is not a waiver~~
33 ~~of exemptions under Chapter 3.5 (commencing with Section~~
34 ~~6250) of Title 1 of Division 7 of the Government Code and does~~
35 ~~not affect other statutory restrictions on disclosure in other~~
36 ~~situations.~~

37 ~~(h)~~

38 ~~(e) (1) Any person who uses information disclosed pursuant~~
39 ~~to the Internet Web site to commit a misdemeanor shall be~~
40 ~~subject to, in addition to any other penalty or fine imposed, a fine~~

1 of not less than ten thousand dollars (\$10,000) and not more than
2 fifty thousand dollars (\$50,000).

3 (2) Any person who uses information disclosed pursuant to the
4 Internet Web site to commit a felony shall be punished, in
5 addition and consecutive to any other punishment, by a five-year
6 term of imprisonment in the state prison.

7 (†)

8 (f) Any person who is required to register pursuant to Section
9 290 who enters the Web site is punishable by a fine not
10 exceeding one thousand dollars (\$1,000), imprisonment in a
11 county jail for a period not to exceed six months, or by both that
12 fine and imprisonment.

13 (†)

14 (g) (1) A person is authorized to use information disclosed
15 pursuant to this section only to protect a person at risk.

16 (2) Except as authorized under paragraph (1) or any other
17 provision of law, use of any information that is disclosed
18 pursuant to this section for purposes relating to any of the
19 following is prohibited:

20 (A) Health insurance.

21 (B) Insurance.

22 (C) Loans.

23 (D) Credit.

24 (E) Employment.

25 (F) Education, scholarships, or fellowships.

26 (G) Housing or accommodations.

27 (H) Benefits, privileges, or services provided by any business
28 establishment.

29 (3) This section shall not affect authorized access to, or use of,
30 information pursuant to, among other provisions, Sections 11105
31 and 11105.3, Section 8808 of the Family Code, Sections 777.5
32 and 14409.2 of the Financial Code, Sections 1522.01 and
33 1596.871 of the Health and Safety Code, and Section 432.7 of
34 the Labor Code.

35 (4) (A) Any use of information disclosed pursuant to this
36 section for purposes other than those provided by paragraph (1)
37 or in violation of paragraph (2) shall make the user liable for the
38 actual damages, and any amount that may be determined by a
39 jury or a court sitting without a jury, not exceeding three times
40 the amount of actual damage, and not less than two hundred fifty

1 dollars (\$250), and attorney's fees, exemplary damages, or a civil
2 penalty not exceeding twenty-five thousand dollars (\$25,000).

3 (B) Whenever there is reasonable cause to believe that any
4 person or group of persons is engaged in a pattern or practice of
5 misuse of the information available via the Internet Web site in
6 violation of paragraph (2), the Attorney General, any district
7 attorney, or city attorney, or any person aggrieved by the misuse
8 is authorized to bring a civil action in the appropriate court
9 requesting preventive relief, including an application for a
10 permanent or temporary injunction, restraining order, or other
11 order against the person or group of persons responsible for the
12 pattern or practice of misuse. The foregoing remedies shall be
13 independent of any other remedies or procedures that may be
14 available to an aggrieved party under other provisions of law,
15 including Part 2 (commencing with Section 43) of Division 1 of
16 the Civil Code.

17 ~~(k)~~

18 (h) On or before July 1, 2006, and every year thereafter, the
19 Department of Justice shall make a report to the Legislature
20 concerning the operation of this section.

21 ~~(f)~~

22 (i) The Department of Justice and its employees shall be
23 immune from liability for good faith conduct under this section.

24 SEC. 6. Section 667.51 of the Penal Code is amended to
25 read:

26 667.51. (a) Any person who is ~~found guilty~~ convicted of
27 violating Section 288 shall receive a five-year enhancement for a
28 prior conviction of an offense ~~listed~~ specified in subdivision (b);
29 ~~provided that no additional term shall be imposed under this~~
30 ~~subdivision for any prison term served prior to a period of 10~~
31 ~~years in which the defendant remained free of both prison~~
32 ~~custody and the commission of an offense that results in a felony~~
33 ~~conviction.~~

34 (b) Section 261, 264.1, 285, 286, 288, 288a, 288.5, or 289, or
35 any offense committed in another jurisdiction that includes all of
36 the elements of any of the offenses ~~set forth~~ specified in this
37 subdivision.

38 (c) ~~Section 261, 264.1, 286, 288, 288a, 288.5, or 289, or any~~
39 ~~offense committed in another jurisdiction that includes all of the~~
40 ~~elements of any of the offenses set forth in this subdivision.~~

~~(d) A violation of Section 288 by a person who has been previously convicted two or more times of an offense listed specified in subdivision (e) (b) is punishable as a felony by imprisonment in the state prison for 15 years to life. However, if the two or more prior convictions were for violations of Section 288, this subdivision is applicable only if the current violation or at least one of the prior convictions is for an offense other than a violation of subdivision (a) of Section 288. For purposes of this subdivision, a prior conviction is required to have been for charges brought and tried separately. The provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term in a state prison imposed pursuant to this section, but that person shall not otherwise be released on parole prior to that time.~~

SEC. 7. Section 667.61 of the Penal Code is amended to read:

667.61. (a) ~~A~~ Any person who is convicted of an offense specified in subdivision (c) under one or more of the circumstances specified in subdivision (d) or under two or more of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for a term of 25 years to life and shall not be eligible for release on parole for 25 years except as provided in subdivision (j).

(b) Except as provided in subdivision (a), a person who is convicted of an offense specified in subdivision (c) under one of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for a term of 15 years to life and shall not be eligible for release on parole for 15 years except as provided in subdivision (j).

(c) This section shall apply to any of the following offenses:

(1) ~~A~~ Rape, in violation of paragraph (2) of subdivision (a) of Section 261.

(2) ~~A~~ Spousal rape, in violation of paragraph (1) of subdivision (a) of Section 262.

(3) ~~A~~ Rape, spousal rape, or sexual penetration in violation of Section 264.1.

(4) A lewd or lascivious act, in violation of subdivision (b) of Section 288.

(5) ~~A~~ Sexual penetration, in violation of subdivision (a) of Section 289.

1 (6) ~~Sodomy or oral copulation in violation of paragraph (2) or~~
2 ~~(3) of subdivision (c) or of subdivision (d) of Section 286 or 288a~~
3 ~~by force, violence, duress, menace, or fear of immediate and~~
4 ~~unlawful bodily injury on the victim or another person.~~

5 (7) *Oral copulation, in violation of paragraph (2) or (3) of*
6 ~~subdivision (c), or of subdivision (d) of Section 288a.~~

7 (8) ~~A lewd or lascivious act in violation of subdivision (a) of~~
8 ~~Section 288, unless the defendant qualifies for probation under~~
9 ~~subdivision (c) of Section 1203.066.~~

10 (9) *Continuous sexual abuse of a child, in violation of Section*
11 ~~288.5.~~

12 (d) The following circumstances shall apply to the offenses
13 specified in subdivision (c):

14 (1) The defendant has been previously convicted of an offense
15 specified in subdivision (c), including an offense committed in
16 another jurisdiction that includes all of the elements of an offense
17 specified in subdivision (c).

18 (2) The defendant kidnapped the victim of the present offense
19 and the movement of the victim substantially increased the risk
20 of harm to the victim over and above that level of risk necessarily
21 inherent in the underlying offense in subdivision (c).

22 (3) The defendant inflicted aggravated mayhem or torture on
23 the victim or another person in the commission of the present
24 offense in violation of Section 205 or 206.

25 (4) The defendant committed the present offense during the
26 commission of a burglary *of the first degree*, as defined in
27 subdivision (a) of Section 460, with intent to commit an offense
28 specified in subdivision (c).

29 (5) *The defendant committed the present offense in violation of*
30 ~~Section 264.1, subdivision (d) of Section 286, or subdivision (d)~~
31 ~~of Section 288a, and in the commission of that offense, any~~
32 ~~person committed any act described in paragraph (2), (3), or (4)~~
33 ~~of this subdivision.~~

34 (e) The following circumstances shall apply to the offenses
35 specified in subdivision (c):

36 (1) Except as provided in paragraph (2) of subdivision (d), the
37 defendant kidnapped the victim of the present offense in
38 violation of Section 207, 209, or 209.5.

39 (2) Except as provided in paragraph (4) of subdivision (d), the
40 defendant committed the present offense during the commission

1 of a burglary, as defined in subdivision (a) of Section 460, or
2 during the commission of a burglary of a building, including any
3 commercial establishment, which was then closed to the public,
4 in violation of Section 459.

5 (3) The defendant personally inflicted great bodily injury on
6 the victim or another person in the commission of the present
7 offense in violation of Section 12022.53, 12022.7, or 12022.8.

8 (4) The defendant personally used a dangerous or deadly
9 weapon or firearm in the commission of the present offense in
10 violation of Section 12022, 12022.3, 12022.5, or 12022.53.

11 (5) The defendant has been convicted in the present case or
12 cases of committing an offense specified in subdivision (c)
13 against more than one victim.

14 (6) The defendant engaged in the tying or binding of the
15 victim or another person in the commission of the present
16 offense.

17 (7) The defendant administered a controlled substance to the
18 victim by force, violence, or fear in the commission of the
19 present offense in violation of Section 12022.75.

20 (8) *The defendant committed the present offense in violation of*
21 *Section 264.1, subdivision (d) of Section 286, or subdivision (d)*
22 *of Section 288a, and in the commission of that offense, any*
23 *person committed any act described in paragraph (1) (2), (3),*
24 *(4), (6) or (7) of this subdivision.*

25 (f) If only the minimum number of circumstances specified in
26 subdivision (d) or (e) ~~which~~ *that* are required for the punishment
27 provided in subdivision (a) or (b) to apply have been pled and
28 proved, that circumstance or those circumstances shall be used as
29 the basis for imposing the term provided in subdivision (a) or (b),
30 *whichever is greater*, rather than being used to impose the
31 punishment authorized under any other *provision of* law, unless
32 another *provision of* law provides for a greater penalty *or the*
33 *punishment under another provision of law can be imposed in*
34 *addition to the punishment provided by this section.* However, if
35 any additional circumstance or circumstances specified in
36 subdivision (d) or (e) have been pled and proved, the minimum
37 number of circumstances shall be used as the basis for imposing
38 the term provided in subdivision (a), and any other additional
39 circumstance or circumstances shall be used to impose any

1 punishment or enhancement authorized under any other law.
2 ~~Notwithstanding~~

3 *(g) Notwithstanding any other provision of law, the court shall*
4 *not strike any allegation, admission, or finding of any of the*
5 *circumstances specified in subdivision (d) or (e) for any person*
6 *who is subject to this section.*

7 ~~(g) The term specified in subdivision (a) or (b) shall be~~
8 ~~imposed on the defendant once for any offense or offenses~~
9 ~~committed against a single victim during a single occasion. If~~
10 ~~there are multiple victims during a single occasion, the term~~
11 ~~specified in subdivision (a) or (b) shall be imposed on the~~
12 ~~defendant once for each separate victim. Terms for other offenses~~
13 ~~committed during a single occasion shall be imposed as~~
14 ~~authorized under any other law, including Section 667.6, if~~
15 ~~applicable.~~

16 ~~(h) Probation~~ *Notwithstanding any other provision of law,*
17 *probation shall not be granted to, nor shall the execution or*
18 *imposition of sentence be suspended for, any person who is*
19 *subject to punishment under this section for any offense specified*
20 *in paragraphs (1) to (6), inclusive, of subdivision (e).*

21 ~~(i) For the any offense specified in paragraphs (1) to (7),~~
22 ~~inclusive, of subdivision (c), the court shall impose a consecutive~~
23 ~~sentence for each offense that results in a conviction under this~~
24 ~~section if the crimes involved separate victims, or involve the~~
25 ~~same victim on separate occasions as defined in subdivision (d)~~
26 ~~of Section 667.6.~~

27 *(j) The penalties provided in this section to shall apply; only if*
28 *the existence of any fact required under circumstance specified in*
29 *subdivision (d) or (e) shall be is alleged in the accusatory*
30 *pleading and either admitted by the defendant in open court or*
31 *found to be true by the trier of fact.*

32 ~~(j) Article 2.5 (commencing with Section 2930) of Chapter 7~~
33 ~~of Title 1 of Part 3 shall apply to reduce the minimum term of 25~~
34 ~~years in the state prison imposed pursuant to subdivision (a) or~~
35 ~~15 years in the state prison imposed pursuant to subdivision (b).~~
36 ~~However, in no case shall the minimum term of 25 or 15 years be~~
37 ~~reduced by more than 15 percent for credits granted pursuant to~~
38 ~~Section 2933, 4019, or any other law providing for conduct credit~~
39 ~~reduction. In no case shall any person who is punished under this~~

1 ~~section be released on parole prior to serving at least 85 percent~~
2 ~~of the minimum term of 25 or 15 years in the state prison.~~

3 *SEC. 8. Section 667.71 of the Penal Code is amended to*
4 *read:*

5 667.71. (a) For the purpose of this section, a habitual sexual
6 offender is a person who has been previously convicted of one or
7 more of the offenses ~~listed~~ *specified* in subdivision (c) and who is
8 convicted in the present proceeding of one of those offenses.

9 (b) A habitual sexual offender is punishable by imprisonment
10 in the state prison for 25 years to life. ~~Article 2.5 (commencing~~
11 ~~with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to~~
12 ~~reduce any minimum term of 25 years in the state prison imposed~~
13 ~~pursuant to this section. However, in no case shall the minimum~~
14 ~~term of 25 years be reduced by more than 15 percent for credits~~
15 ~~granted pursuant to Section 2933, 4019, or any other law~~
16 ~~providing for conduct credit reduction. In no case shall any~~
17 ~~person who is punished under this section be released on parole~~
18 ~~prior to serving at least 85 percent of the minimum term of 25~~
19 ~~years in the state prison.~~

20 (c) This section shall apply to any of the following offenses:

21 (1) ~~A Rape~~, in violation of paragraph (2) of subdivision (a) of
22 Section 261.

23 (2) ~~A Rape~~, in violation of paragraph (1) of subdivision (a) of
24 Section 262.

25 (3) ~~A Rape~~, in violation of Section 264.1.

26 (4) ~~A Rape, spousal rape, or sexual penetration~~ in violation of
27 subdivision (a) or (b) of Section 288.

28 (5) ~~A lewd or lascivious act~~, in violation of subdivision (a) of
29 Section 289.

30 (6) ~~A Continuous sexual abuse of a child~~ in violation of
31 Section 288.5.

32 (7) ~~A Sodomy~~, in violation of subdivision (c) or (d) of Section
33 286 ~~by force, violence, duress, menace, or fear of immediate and~~
34 ~~unlawful bodily injury on the victim or another person.~~

35 (8) ~~A violation of subdivision (d) of Section 286.~~

36 (9) ~~A Oral copulation~~ in violation of subdivision (c) or (d) of
37 Section 288a ~~by force, violence, duress, menace, or fear of~~
38 ~~immediate and unlawful bodily injury on the victim or another~~
39 ~~person.~~

40 (10) ~~A~~

(9) *Kidnapping, in violation of subdivision (b) of Section 207.*

~~(11) A~~

(10) *Kidnapping, in violation of former subdivision (d) of Section 208 (kidnapping to commit specified sex offenses).*

~~(12)~~

(11) *Kidnapping in violation of subdivision (b) of Section 209 with the intent to commit rape, spousal rape, oral copulation, or sodomy or sexual penetration in violation of Section 289.*

~~(13) A~~

(12) *Aggravated sexual assault of a child, in violation of Section 269.*

~~(14)~~

(13) *An offense committed in another jurisdiction that has includes all the elements of an offense specified in paragraphs (1) to (13), inclusive, of this subdivision.*

(d) *Notwithstanding any other provision of law, the court shall not strike any allegation, admission, or finding of any prior conviction specified in subdivision (c) for any person who is subject to punishment under this section.*

(e) *Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is subject to punishment under this section.*

(f) *This section shall apply only if the defendant's status as a habitual sexual offender is alleged in the information accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by trial by court sitting without a jury trier of fact.*

SEC. 9. *Section 3000 of the Penal Code is amended to read:*

3000. (a) (1) *The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees, including the judicious use of revocation actions, and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence pursuant to Section*

1 1168 or 1170 shall include a period of parole, unless waived, as
2 provided in this section.

3 (2) The Legislature finds and declares that it is not the intent
4 of this section to diminish resources allocated to the Department
5 of Corrections for parole functions for which the department is
6 responsible. It is also not the intent of this section to diminish the
7 resources allocated to the Board of Prison Terms to execute its
8 duties with respect to parole functions for which the board is
9 responsible.

10 (3) The Legislature finds and declares that diligent effort must
11 be made to ensure that parolees are held accountable for their
12 criminal behavior, including, but not limited to, the satisfaction
13 of restitution fines and orders.

14 (4) Any finding made pursuant to Article 4 (commencing
15 with Section 6600) of Chapter 2 of Part 2 of Division 6 of the
16 Welfare and Institutions Code, that a person is a sexually violent
17 predator shall not toll, discharge, or otherwise affect that person's
18 period of parole.

19 (b) Notwithstanding any provision to the contrary in Article 3
20 (commencing with Section 3040) of this chapter, the following
21 shall apply:

22 (1) At the expiration of a term of imprisonment of one year
23 and one day, or a term of imprisonment imposed pursuant to
24 Section 1170 or at the expiration of a term reduced pursuant to
25 Section 2931 or 2933, if applicable, the inmate shall be released
26 on parole for a period not exceeding three years, except that any
27 inmate sentenced for an offense specified in paragraph (3), (4),
28 (5), (6), (11), (16), or (18) of subdivision (c) of Section 667.5
29 shall be released on parole for a period not exceeding five years,
30 unless in either case the parole authority for good cause waives
31 parole and discharges the inmate from the custody of the
32 department.

33 (2) In the case of any inmate sentenced under Section 1168,
34 the period of parole shall not exceed five years in the case of an
35 inmate imprisoned for any offense other than first or second
36 degree murder for which the inmate has received a life sentence,
37 and shall not exceed three years in the case of any other inmate,
38 unless in either case the parole authority for good cause waives
39 parole and discharges the inmate from custody of the department.
40 This subdivision shall also be applicable to inmates who

committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

(3) Notwithstanding paragraphs (1) and (2), in the case of any offense for which the inmate has received a life sentence pursuant to Section 667.61 or 667.71, the period of parole shall be ~~five~~ 10 years. Upon the request of the Department of Corrections, and on the grounds that the paroled inmate may pose a substantial danger to public safety, the Board of Prison Terms shall conduct a hearing to determine if the parolee shall be subject to a single additional five-year period of parole. The board shall conduct the hearing pursuant to the procedures and standards governing parole revocation. The request for parole extension shall be made no less than 180 days prior to the expiration of the initial five-year period of parole.

(4) The parole authority shall consider the request of any inmate regarding the length of his or her parole and the conditions thereof.

(5) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1), (2), or (3), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1), (2), and (3) shall be computed from the date of initial parole ~~or from the date of extension of parole pursuant to paragraph (3)~~ and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, *in the period of parole shall be subject to the following:*

(A) *In no case*, except as provided in Section 3064, may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of his or her initial parole, ~~and,~~

(B) *In no case*, except as provided in Section 3064, ~~in no case~~ may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of his or her initial parole ~~or from the date of extension of parole pursuant to paragraph (3)~~.

1 (C) *In no case, except as provided in Section 3064, may a*
2 *prisoner subject to 10 years on parole be retained under parole*
3 *supervision or in custody for a period longer than 15 years from*
4 *the date of his or her parole.*

5 (6) The Department of Corrections shall meet with each
6 inmate at least 30 days prior to his or her good time release date
7 and shall provide, under guidelines specified by the parole
8 authority, the conditions of parole and the length of parole up to
9 the maximum period of time provided by law. The inmate has the
10 right to reconsideration of the length of parole and conditions
11 thereof by the parole authority. The Department of Corrections or
12 the Board of Prison Terms may impose as a condition of parole
13 that a prisoner make payments on the prisoner's outstanding
14 restitution fines or orders imposed pursuant to subdivision (a) or
15 (c) of Section 13967 of the Government Code, as operative prior
16 to September 28, 1994, or subdivision (b) or (f) of Section
17 1202.4.

18 (7) For purposes of this chapter, the Board of Prison Terms
19 shall be considered the parole authority.

20 (8) The sole authority to issue warrants for the return to actual
21 custody of any state prisoner released on parole rests with the
22 Board of Prison Terms, except for any escaped state prisoner or
23 any state prisoner released prior to his or her scheduled release
24 date who should be returned to custody, and Section 3060 shall
25 apply.

26 (9) It is the intent of the Legislature that efforts be made with
27 respect to persons who are subject to subparagraph (C) of
28 paragraph (1) of subdivision (a) of Section 290 who are on parole
29 to engage them in treatment.

30 SEC. 10. *Section 3000.7 is added to the Penal Code, to read:*

31 3000.7. (a) *Every inmate who has been convicted, on or after*
32 *January 1, 2005, of any felony violation that is a registerable sex*
33 *offense pursuant to Section 290.46, or any attempt to commit any*
34 *of the those offenses, and who committed to prison and release*
35 *on parole pursuant to Section 3000 or 3000.1, shall be monitored*
36 *by a Global Positioning System for the term of his or her parole,*
37 *or for the duration or any remaining part thereof.*

38 (b) *Any inmate released on parole pursuant to this section*
39 *shall be required to pay for the costs associated with the*
40 *monitoring by a Global Positioning System. However, the*

Department of Corrections shall waive any or all of that payment upon a finding of an inability to pay. The department shall consider any remaining amounts the inmate has been ordered to pay in fines, assessments and restitution fines, fees, and orders, and shall give priority to the payment of those items before requiring that the inmate pay for the Global Positioning Monitoring. No inmate shall be denied parole on the basis of his or her inability to pay for those monitoring costs.

SEC. 11. Section 3001 of the Penal Code is amended to read:

3001. (a) Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was not imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state prison, and has been on parole continuously for one year since release from confinement, within 30 days, that person shall be discharged from parole, unless the Department of Corrections recommends to the Board of Prison Terms that the person be retained on parole and the board, for good cause, determines that the person will be retained. Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state prison for a period not exceeding three years and has been on parole continuously for two years since release from confinement, or has been released on parole from the state prison for a period not exceeding five years and has been on parole continuously for three years since release from confinement, the department shall discharge, within 30 days, that person from parole, unless the department recommends to the board that the person be retained on parole and the board, for good cause, determines that the person will be retained. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(b) Notwithstanding any other provision of law, when any person referred to in paragraph (2) or (3) of subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for three years since release from confinement or since extension of parole, the board shall discharge, within 30 days, the person from parole, unless the

1 board, for good cause, determines that the person will be retained
2 on parole. The board shall make a written record of its
3 determination and the department shall transmit a copy thereof to
4 the parolee.

5 (c) *When any person referred to in paragraph (3) of*
6 *subdivisions (b) of Section 3000 has been released on parole and*
7 *has been on parole continuously for six years since release from*
8 *confinement, the board shall within 30 days, discharge the*
9 *person from parole, unless the board, for good cause, determines*
10 *that the person should be retained on parole. The board shall*
11 *make a written record of its determination and the department*
12 *shall transmit a copy thereof to the parolee.*

13 (d) In the event of a retention on parole, the parolee shall be
14 entitled to a review by the parole authority each year thereafter
15 until the maximum statutory period of parole has expired.

16 ~~(d)~~

17 (e) The amendments to this section made during the 1987–88
18 Regular Session of the Legislature shall only be applied
19 prospectively and shall not extend the parole period for any
20 person whose eligibility for discharge from parole was fixed as
21 of the effective date of those amendments.

22 SEC. 12. *Section 6600 of the Welfare and Institutions Code is*
23 *amended to read:*

24 6600. As used in this article, the following terms have the
25 following meanings:

26 (a) (1) “Sexually violent predator” means a person who has
27 been convicted of a sexually violent offense against two or more
28 victims, *or if one victim was under 14 years of age at the time of*
29 *the offense and the crime was predatory as defined in this*
30 *section*, and who has a diagnosed mental disorder that makes the
31 person a danger to the health and safety of others in that it is
32 likely that he or she will engage in sexually violent criminal
33 behavior.

34 (2) For purposes of this subdivision any of the following shall
35 be considered a conviction for a sexually violent offense:

36 (A) A prior or current conviction that resulted in a determinate
37 prison sentence for an offense described in subdivision (b).

38 (B) A conviction for an offense described in subdivision (b)
39 that was committed prior to July 1, 1977, and that resulted in an
40 indeterminate prison sentence.

1 (C) A prior conviction in another jurisdiction for an offense
2 that includes all of the elements of an offense described in
3 subdivision (b).

4 (D) A conviction for an offense under a predecessor statute
5 that includes all of the elements of an offense described in
6 subdivision (b).

7 (E) A prior conviction for which the inmate received a grant of
8 probation for an offense described in subdivision (b).

9 (F) A prior finding of not guilty by reason of insanity for an
10 offense described in subdivision (b).

11 (G) A conviction resulting in a finding that the person was a
12 mentally disordered sex offender.

13 (3) Conviction of one or more of the crimes enumerated in this
14 section shall constitute evidence that may support a court or jury
15 determination that a person is a sexually violent predator, but
16 shall not be the sole basis for the determination. The existence of
17 any prior convictions may be shown with documentary evidence.
18 The details underlying the commission of an offense that led to a
19 prior conviction, including a predatory relationship with the
20 victim, may be shown by documentary evidence, including, but
21 not limited to, preliminary hearing transcripts, trial transcripts,
22 probation and sentencing reports, and evaluations by the State
23 Department of Mental Health. Jurors shall be admonished that
24 they may not find a person a sexually violent predator based on
25 prior offenses absent relevant evidence of a currently diagnosed
26 mental disorder that makes the person a danger to the health and
27 safety of others in that it is likely that he or she will engage in
28 sexually violent criminal behavior.

29 (4) The provisions of this section shall apply to any person
30 against whom proceedings were initiated for commitment as a
31 sexually violent predator on or after January 1, 1996.

32 (b) “Sexually violent offense” means the following acts when
33 committed by force, violence, duress, menace, or fear of
34 immediate and unlawful bodily injury on the victim or another
35 person, and that are committed on, before, or after the effective
36 date of this article and result in a conviction or a finding of not
37 guilty by reason of insanity, as provided in subdivision (a): a
38 felony violation of paragraph (2) of subdivision (a) of Section
39 261, paragraph (1) of subdivision (a) of Section 262, Section
40 264.1, subdivision (a) or (b) of Section 288, or subdivision (a) of

1 Section 289 of the Penal Code, or sodomy or oral copulation in
2 violation of Section 286 or 288a of the Penal Code *or any felony*
3 *violation of Section 207 or 209 of the Penal Code committed with*
4 *the intent to commit an offense set forth in Section 261, 262,*
5 *264.1, 286, 288, 288a, or 289 of the Penal Code.*

6 (c) “Diagnosed mental disorder” includes a congenital or
7 acquired condition affecting the emotional or volitional capacity
8 that predisposes the person to the commission of criminal sexual
9 acts in a degree constituting the person a menace to the health
10 and safety of others.

11 (d) “Danger to the health and safety of others” does not
12 require proof of a recent overt act while the offender is in
13 custody.

14 (e) “Predatory” means an act is directed toward a stranger, a
15 person of casual acquaintance with whom no substantial
16 relationship exists, or an individual with whom a relationship has
17 been established or promoted for the primary purpose of
18 victimization.

19 (f) “Recent overt act” means any criminal act that manifests a
20 likelihood that the actor may engage in sexually violent predatory
21 criminal behavior.

22 (g) Notwithstanding any other provision of law and for
23 purposes of this section, no more than one prior juvenile
24 adjudication of a sexually violent offense may constitute a prior
25 conviction for which the person received a determinate term if all
26 of the following applies:

27 (1) The juvenile was 16 years of age or older at the time he or
28 she committed the prior offense.

29 (2) The prior offense is a sexually violent offense as specified
30 in subdivision (b). Notwithstanding Section 6600.1, only an
31 offense described in subdivision (b) shall constitute a sexually
32 violent offense for purposes of this subdivision.

33 (3) The juvenile was adjudged a ward of the juvenile court
34 within the meaning of Section 602 because of the person’s
35 commission of the offense giving rise to the juvenile court
36 adjudication.

37 (4) The juvenile was committed to the Department of the
38 Youth Authority for the sexually violent offense.

39 (h) A minor adjudged a ward of the court for commission of
40 an offense that is defined as a sexually violent offense shall be

1 entitled to specific treatment as a sexual offender. The failure of
2 a minor to receive that treatment shall not constitute a defense or
3 bar to a determination that any person is a sexually violent
4 predator within the meaning of this article.

5 *SEC. 13. No reimbursement is required by this act pursuant*
6 *to Section 6 of Article XIII B of the California Constitution*
7 *because the only costs that may be incurred by a local agency or*
8 *school district will be incurred because this act creates a new*
9 *crime or infraction, eliminates a crime or infraction, or changes*
10 *the penalty for a crime or infraction, within the meaning of*
11 *Section 17556 of the Government Code, or changes the definition*
12 *of a crime within the meaning of Section 6 of Article XIII B of the*
13 *California Constitution.*

14 ~~SECTION 1. Section 290.46 of the Penal Code is amended to~~
15 ~~read:~~

16 ~~290.46. (a) On or before the dates specified in this section,~~
17 ~~the Department of Justice shall make information concerning~~
18 ~~persons who are required to register pursuant to Section 290~~
19 ~~available to the public via an Internet Web site as specified in~~
20 ~~this section. The department shall update the Web site on an~~
21 ~~ongoing basis. All information identifying the victim by name,~~
22 ~~birth date, address, or relationship to the registrant shall be~~
23 ~~excluded from the Web site. The name or address of the person's~~
24 ~~employer and the listed person's criminal history other than the~~
25 ~~specific crimes for which the person is required to register shall~~
26 ~~not be included on the Web site. The Web site shall be translated~~
27 ~~into languages other than English as determined by the~~
28 ~~department.~~

29 ~~(b) (1) On or before July 1, 2005, with respect to a person~~
30 ~~who has been convicted of the commission or the attempted~~
31 ~~commission of any of the offenses listed in this subdivision or the~~
32 ~~statutory predecessors of any of these offenses, or any offense~~
33 ~~which, if committed or attempted to be committed in this state,~~
34 ~~would have been punishable as one or more of the offenses listed~~
35 ~~in this subdivision, the Department of Justice shall make~~
36 ~~available to the public via the Internet Web site his or her names~~
37 ~~and known aliases, a photograph, a physical description,~~
38 ~~including gender and race, date of birth, criminal history, the~~
39 ~~address at which the person resides, and any other information~~

1 ~~that the Department of Justice deems relevant, but not the~~
2 ~~information excluded pursuant to subdivision (a).~~

3 ~~(2) This subdivision shall apply to the following offenses:~~

4 ~~(A) Subdivision (b) of Section 207.~~

5 ~~(B) Subdivision (b) of Section 209, except kidnapping to~~
6 ~~commit robbery.~~

7 ~~(C) Paragraph (2) or (6) of subdivision (a) of Section 261.~~

8 ~~(D) Section 264.1.~~

9 ~~(E) Section 269.~~

10 ~~(F) Subdivision (e) or (d) of Section 286.~~

11 ~~(G) Subdivision (a), (b), or (c) of Section 288, provided that~~
12 ~~the offense is a felony.~~

13 ~~(H) Subdivision (e) or (d) of Section 288a.~~

14 ~~(I) Section 288.5.~~

15 ~~(J) Subdivision (a) or (j) of Section 289.~~

16 ~~(3) This subdivision shall also apply to any person who has~~
17 ~~ever been adjudicated a sexually violent predator as defined in~~
18 ~~Section 6600 of the Welfare and Institutions Code.~~

19 ~~(e) (1) On or before July 1, 2005, with respect to a person~~
20 ~~who has been convicted of the commission or the attempted~~
21 ~~commission of any of the offenses listed in paragraph (2) or the~~
22 ~~statutory predecessors of any of these offenses, or any offense~~
23 ~~which, if committed or attempted to be committed in this state,~~
24 ~~would have been punishable as one or more of the offenses listed~~
25 ~~in this subdivision, the Department of Justice shall make~~
26 ~~available to the public via the Internet Web site his or her names~~
27 ~~and known aliases, a photograph, a physical description,~~
28 ~~including gender and race, date of birth, criminal history, the~~
29 ~~community of residence and ZIP Code in which the person~~
30 ~~resides, and any other information that the Department of Justice~~
31 ~~deems relevant, but not the information excluded pursuant to~~
32 ~~subdivision (a). However, the address at which the person resides~~
33 ~~shall not be disclosed until a determination is made that the~~
34 ~~person is, by virtue of his or her additional prior or subsequent~~
35 ~~conviction of an offense listed in paragraph (2) of subdivision (a)~~
36 ~~of Section 290, subject to this subdivision. On or before July 1,~~
37 ~~2006, the Department of Justice shall determine whether any~~
38 ~~person convicted of an offense listed in paragraph (2) also has~~
39 ~~one or more prior or subsequent convictions of an offense listed~~
40 ~~in paragraph (2) of subdivision (a) of Section 290, and, for those~~

1 persons, the Department of Justice shall make available to the
2 public via the Internet Web site the address at which the person
3 resides.

4 ~~(2) This subdivision shall apply to the following offenses,~~
5 ~~provided that the person has one or more prior or subsequent~~
6 ~~convictions of an offense listed in paragraph (2) of subdivision~~
7 ~~(a) of Section 290:~~

8 ~~(A) Section 220, except assault to commit mayhem.~~

9 ~~(B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.~~

10 ~~(C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or~~
11 ~~(i), of Section 286.~~

12 ~~(D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or~~
13 ~~(i), of Section 288a.~~

14 ~~(E) Subdivision (b), (d), (e), or (i) of Section 289.~~

15 ~~(d) (1) On or before July 1, 2005, with respect to a person~~
16 ~~who has been convicted of the commission or the attempted~~
17 ~~commission of any of the offenses listed in this subdivision or the~~
18 ~~statutory predecessors of any of these offenses, or of any offense~~
19 ~~which, if committed or attempted to be committed in this state,~~
20 ~~would have been punishable as one or more of the offenses listed~~
21 ~~in this subdivision, the Department of Justice shall make~~
22 ~~available to the public via the Internet Web site his or her names~~
23 ~~and known aliases, a photograph, a physical description,~~
24 ~~including gender and race, date of birth, criminal history, the~~
25 ~~community of residence and ZIP Code in which the person~~
26 ~~resides, and any other information that the Department of Justice~~
27 ~~deems relevant, but not the information excluded pursuant to~~
28 ~~subdivision (a) or the address at which the person resides.~~

29 ~~(2) This subdivision shall apply to the following offenses:~~

30 ~~(A) Section 220, except assault to commit mayhem, with no~~
31 ~~prior or subsequent conviction of an offense listed in paragraph~~
32 ~~(2) of subdivision (a) of Section 290.~~

33 ~~(B) Subdivision (a) of Section 243.4, provided that the offense~~
34 ~~is a felony.~~

35 ~~(C) Paragraph (1), (3), or (4) of subdivision (a) of Section 261,~~
36 ~~with no prior or subsequent conviction of an offense listed in~~
37 ~~paragraph (2) of subdivision (a) of Section 290.~~

38 ~~(D) Section 266, provided that the offense is a felony.~~

39 ~~(E) Section 266e, provided that the offense is a felony.~~

40 ~~(F) Section 266j.~~

1 ~~(G) Section 267.~~

2 ~~(H) Paragraph (2) of subdivision (b), or subdivision (f), (g), or~~
3 ~~(i), of Section 286, with no prior or subsequent conviction of an~~
4 ~~offense listed in paragraph (2) of subdivision (a) of Section 290.~~

5 ~~(I) Subdivision (c) of Section 288, provided that the offense is~~
6 ~~a misdemeanor.~~

7 ~~(J) Paragraph (2) of subdivision (b), or subdivision (f), (g), or~~
8 ~~(i), of Section 288a, with no prior or subsequent conviction of an~~
9 ~~offense listed in paragraph (2) of subdivision (a) of Section 290.~~

10 ~~(K) Subdivision (b), (d), (e), or (i) of Section 289, with no~~
11 ~~prior or subsequent conviction of an offense listed in paragraph~~
12 ~~(2) of subdivision (a) of Section 290.~~

13 ~~(L) Section 647.6.~~

14 ~~(e) (1) If a person has been convicted of the commission or~~
15 ~~the attempted commission of any of the offenses listed in this~~
16 ~~subdivision or the statutory predecessors of any of these offenses,~~
17 ~~or of any offense which, if committed or attempted to be~~
18 ~~committed in this state, would have been punishable as one or~~
19 ~~more of the offenses listed in this subdivision, and he or she has~~
20 ~~been convicted of no other offense listed in subdivision (b), (c),~~
21 ~~or (d) other than those listed in this subdivision, that person may~~
22 ~~file an application for exclusion from the Internet Web site with~~
23 ~~the Department of Justice. If the department determines that the~~
24 ~~person meets the requirements of this subdivision, the department~~
25 ~~shall grant the exclusion and no information concerning him or~~
26 ~~her shall be made available via the Internet Web site described in~~
27 ~~this section. He or she bears the burden of proving the facts that~~
28 ~~make him or her eligible for exclusion from the Internet Web~~
29 ~~site. However, a person who has filed for or been granted an~~
30 ~~exclusion from the Internet Web site is not relieved of his or her~~
31 ~~duty to register as a sex offender pursuant to Section 290 nor~~
32 ~~from any otherwise applicable provision of law.~~

33 ~~(2) This subdivision shall apply to the following offenses:~~

34 ~~(A) A felony violation of subdivision (a) of Section 243.4.~~

35 ~~(B) Section 647.6, provided the offense is a misdemeanor.~~

36 ~~(C) An offense listed in subdivision (b), (c), or (d) if the~~
37 ~~offender is eligible for, granted, and successfully completes~~
38 ~~probation pursuant to Section 1203.066 of the Penal Code.~~

39 ~~(f) The Department of Justice shall make a reasonable effort to~~
40 ~~provide notification to persons who have been convicted of the~~

~~1 commission or attempted commission of an offense specified in
2 subdivision (b), (c), or (d), that on or before July 1, 2005, the
3 department is required to make information about him or her
4 available to the public via an Internet Web site as specified in
5 this section. The Department of Justice shall also make a
6 reasonable effort to provide notice that he or she may be eligible
7 for exclusion from the Internet Web site if he or she may have
8 been convicted of an offense for which exclusion is available
9 pursuant to subdivision (c).~~

~~10 (g) Notwithstanding Section 6254.5 of the Government Code,
11 disclosure of information pursuant to this section is not a waiver
12 of exemptions under Chapter 3.5 (commencing with Section
13 6250) of Title 1 of Division 7 of the Government Code and does
14 not affect other statutory restrictions on disclosure in other
15 situations.~~

~~16 (h) (1) Any person who uses information disclosed pursuant
17 to the Internet Web site to commit a misdemeanor shall be
18 subject to, in addition to any other penalty or fine imposed, a fine
19 of not less than ten thousand dollars (\$10,000) and not more than
20 fifty thousand dollars (\$50,000).~~

~~21 (2) Any person who uses information disclosed pursuant to the
22 Internet Web site to commit a felony shall be punished, in
23 addition and consecutive to any other punishment, by a five-year
24 term of imprisonment in the state prison.~~

~~25 (i) Any person who is required to register pursuant to Section
26 290 who enters the Web site is punishable by a fine not
27 exceeding one thousand dollars (\$1,000), imprisonment in a
28 county jail for a period not to exceed six months, or by both that
29 fine and imprisonment.~~

~~30 (j) (1) A person is authorized to use information disclosed
31 pursuant to this section only to protect a person at risk.~~

~~32 (2) Except as authorized under paragraph (1) or any other
33 provision of law, use of any information that is disclosed
34 pursuant to this section for purposes relating to any of the
35 following is prohibited:~~

~~36 (A) Health insurance.~~

~~37 (B) Insurance.~~

~~38 (C) Loans.~~

~~39 (D) Credit.~~

~~40 (E) Employment.~~

1 ~~(F) Education, scholarships, or fellowships.~~

2 ~~(G) Housing or accommodations.~~

3 ~~(H) Benefits, privileges, or services provided by any business~~
4 ~~establishment.~~

5 ~~(3) This section shall not affect authorized access to, or use of,~~
6 ~~information pursuant to, among other provisions, Sections 11105~~
7 ~~and 11105.3, Section 8808 of the Family Code, Sections 777.5~~
8 ~~and 14409.2 of the Financial Code, Sections 1522.01 and~~
9 ~~1596.871 of the Health and Safety Code, and Section 432.7 of~~
10 ~~the Labor Code.~~

11 ~~(4) (A) Any use of information disclosed pursuant to this~~
12 ~~section for purposes other than those provided by paragraph (1)~~
13 ~~or in violation of paragraph (2) shall make the user liable for the~~
14 ~~actual damages, and any amount that may be determined by a~~
15 ~~jury or a court sitting without a jury, not exceeding three times~~
16 ~~the amount of actual damage, and not less than two hundred fifty~~
17 ~~dollars (\$250), and attorney's fees, exemplary damages, or a civil~~
18 ~~penalty not exceeding twenty-five thousand dollars (\$25,000).~~

19 ~~(B) Whenever there is reasonable cause to believe that any~~
20 ~~person or group of persons is engaged in a pattern or practice of~~
21 ~~misuse of the information available via the Internet Web site in~~
22 ~~violation of paragraph (2), the Attorney General, any district~~
23 ~~attorney, or city attorney, or any person aggrieved by the misuse~~
24 ~~is authorized to bring a civil action in the appropriate court~~
25 ~~requesting preventive relief, including an application for a~~
26 ~~permanent or temporary injunction, restraining order, or other~~
27 ~~order against the person or group of persons responsible for the~~
28 ~~pattern or practice of misuse. The foregoing remedies shall be~~
29 ~~independent of any other remedies or procedures that may be~~
30 ~~available to an aggrieved party under other provisions of law,~~
31 ~~including Part 2 (commencing with Section 43) of Division 1 of~~
32 ~~the Civil Code.~~

33 ~~(k) On or before July 1, 2006, and every year thereafter, the~~
34 ~~Department of Justice shall make a report to the Legislature~~
35 ~~concerning the operation of this section.~~

36 ~~(l) The Department of Justice and its employees shall be~~
37 ~~immune from liability for good faith conduct under this section.~~